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April 3, 2009

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The Honorable Anne K. Quinlan
Acting Secretary
Surface Transportation Board
395 E Street, S.W.
Washington, D.C. 20423-0001

**Re: Docket No. 42088, Western Fuels Association, Inc. and
Basin Electric Cooperative v. BNSF Railway Company**

Dear Secretary Quinlan:

On April 2, 2009, complainants Western Fuels Association, Inc. and Basin Electric Power Cooperative, Inc. ("WFA/Basin") filed a request for expedited relief with the Board which WFA/Basin styled as a "reply" to BNSF Railway Company's ("BNSF") March 20, 2009 notice that it had established rates as ordered in the Board's February 18, 2009 decision. Although WFA/Basin apparently seek to foreclose any responsive BNSF filing by styling their pleading as a "reply," the fact is that WFA/Basin are asking the Board to take actions that would massively expand the relief WFA/Basin have already obtained in this case. The purpose of this letter is to advise the Board that BNSF intends to address the merits of WFA/Basin's multiple arguments and requests for relief in their April 2, 2009 pleading in a filing with the Board.

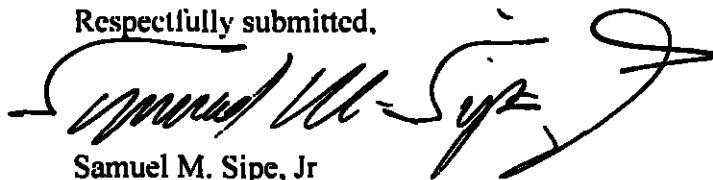
The issues raised by WFA/Basin are of enormous consequence and warrant close scrutiny by the Board. The rate setting approach that WFA/Basin are asking the Board to adopt in this case would add tens of millions of dollars in reparations to what is already the largest award of rate relief ever granted by this agency and could result in prescribed rates that are below the jurisdictional threshold for some periods. WFA/Basin, who had some of the lowest transportation rates in the country under the challenged rates, have already realized a tremendous benefit as a result of the Board's February 2009 decision. WFA/Basin now seek to extract additional tens of millions of dollars from BNSF by claiming that BNSF's variable costs for the next 20 years must be determined not by its current costs but by the URCS variable costs determined by the Board for 2004.

The Board's February 2009 decision ordered BNSF to establish rates at specified revenue-to-variable cost ratios. Consistent with the practice in every prior SAC case where prescribed rates were based on R/VC ratios, BNSF established the rates based on the most current BNSF URCS variable costs available indexed to 2009, the year in which the rate

prescription goes into effect. In its forthcoming filing, BNSF will explain why these are the correct costs to use to implement the Board's February 2009 rate prescription

Regarding WFA/Basin's request for expedition, BNSF will make every effort to file its response to WFA/Basin's claims before the expiration of the normal 20-day period.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Samuel M. Sipe, Jr.", with a large, stylized flourish extending to the right.

Samuel M. Sipe, Jr
Counsel for BNSF Railway Company

Cc: Counsel for WFA/Basin
Acting Chairman Mulvey
Vice Chairman Nottingham